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10/767,411

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Gloria Jean Navarre

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AT & T Legal Department - BHGL  
Attn: Patent Docketing Room 2A-207  
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EXAMINER

KIM, PAUL

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,411	<b>Applicant(s)</b> NAVARRE ET AL.	
	<b>Examiner</b> PAUL KIM	<b>Art Unit</b> 2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. This Office action is responsive to the following communication: Pre-Brief Conference Request filed on 11 December 2008.
2. Claims 1-20 are pending and present for examination.

### ***Response to Amendment***

3. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or

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claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. **Claims 1-19** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1-18 of U.S. Patent No. 6,442,611. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention is broader in scope than the invention found U.S. Patent No. 6,442,611 upon which the present application claims priority to.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-4, 6-8, 10-14, 16-18, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud et al (U.S. Patent No. 5,634,127, hereinafter referred to as CLOUD), filed on 30 November 1994, and issued on 27 May 1997, in view of Messenger et al (U.S. Patent No. 5,051,947, hereinafter referred to as MESSENGER), filed on 10 December 1985, and issued on 24 September 1991, and in further view of Velissaropoulous et al (U.S. Patent No. 5,659,727, hereinafter referred to as VELI), filed on 7 June 1995, and issued on 19 August 1997.

8. **As per independent claims 1, 10, and 20**, CLOUD, in combination with MESSENGER and VELI, discloses:

A method comprising:

(a) transmitting a set of data access transactions to respective applications {See CLOUD, col. 11, lines 27-34, wherein this reads over "decompose the message receive and invoke

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several task to independently retrieve information from whatever different sources are necessary"}, wherein at least some of the set of data access transactions comprise a first optional data item {See MESSENGER, C20:L1-10, wherein this reads over "[a]nother optional attribute is the inclusion of arbitrary boolean expression in the search definition, such as: (CAT and DOG) or (KITTEN and PUPPY)"}, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item {See VELI, C15:L57-62, wherein this reads over "[a]n Ignorable attribute specifies that a parameter can be ignored by the receiver of a command if the receiver does not provide the support requested. The parameter can be sent optionally by all senders. The parameter codepoint must be recognized by all receivers}; and,

- (b) integrating the set of responses received from the respective applications {See CLOUD, Abstract, wherein this reads over "[i]nformation resulting from workflows and information retrieved from back-end servers may be integrated into a single reply message to the requesting client"}.

While CLOUD fails to expressly disclose the incorporation of optional data items within the set of data access transactions, MESSENGER discloses the method wherein a search may include optional data items, and wherein said data items may be optionally processed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by CLOUD with the invention disclosed by MESSENGER.

One of ordinary skill in the art would have been motivated to do this modification so that optional data items may be transmitted within the data access transactions such that the optional data items need are processed when an application does not recognize said requested optional data items.

Additionally, while the combination of CLOUD and MESSENGER may fail to expressly disclose the limitation of "wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item," VERI discloses a system wherein a parameter may be ignored by the receiver of a command if the receiver does not provide the support requested. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by CLOUD and MESSENGER with the invention disclosed by VERI.

One of ordinary skill in the art would have been motivated to do this modification so that optional parameter may be ignored while the data access transaction is processed.

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9. **As per dependent claims 2 and 11**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 1 further comprising, before (a), receiving a request from a second application, the second application being different from the respective applications {See CLOUD, col. 11, lines 15-16, wherein this reads over "the work flow manager is initiated by a request message which it receives as input"}.

10. **As per dependent claims 3 and 13**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 2, wherein the request is transmitted by the second application in response to user initiation {See CLOUD, Figure 10; and col. 16, lines 6-9, wherein this reads over "a customer service representative initiates a request message. The message is received at the MDP and a message control block is established"}.

11. **As per dependent claims 4 and 14**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 2, wherein the request is transmitted by the second application in response to intelligent agent software initiation {See CLOUD, col. 8, lines 30-34, wherein this reads over "the input request manager can translate disparate front end message protocols into MDP message formats, allowing clients with existing application message formats to be accepted by the workflow Manager"}.

12. **As per dependent claims 6 and 16**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 2 further comprising automatically identifying the set of data access transactions from the request {See CLOUD, col. 11, lines 27-34, wherein this reads over "the work flow will decompose the message received and invoke several tasks to independently retrieve information from whatever different sources are necessary"}.

13. **As per dependent claims 7 and 17**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 1 further comprising returning the integrated set of responses to a second application, the second application being different from the respective applications {See CLOUD, col. 11, lines 30-34, wherein this reads over "the work flow manager manages all of the information placed into the session control block, to be described hereinafter, into one or more comprehensive replies which may then be sent back to the client"}.

14. **As per dependent claims 8 and 18**, CLOUD, in combination with MESSENGER and VELI, discloses:

The method of claim 1 further comprising:

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receiving user identification information from a second application, the second application being different from the respective applications {See CLOUD, col. 11, lines 15-16, wherein this reads over "the work flow manager is initiated by a request message which it receives as input"}; and

verifying the received user identification information by accessing a user profile database {See CLOUD, col. 8, lines 26-34, wherein this reads over "security checking and client validation and registration functions"}.

15. **As per dependent claim 12**, it would be inherent for the second application to operatively transmit a request to the processor since without the ability to communicate with the processor, the application would not be able to functionally operate.

16. **Claims 5 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over CLOUD, in view of MESSENGER and VELI, and in further view of Official Notice.

17. **As per dependent claims 5 and 15**, the Examiner takes Official Notice that it would have been widely-known and obvious to one of ordinary skill in the art that the request is transmitted by the second application using a web browser.

18. **Claims 9 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over CLOUD, in view of MESSENGER and VELI, and in further view of Ferguson et al (U.S. Patent No. 5,819,092, hereinafter referred to as FERGUSON), filed on 6 October 1997, and issued on 6, October 1998.

19. **As per dependent claims 9 and 19**, CLOUD, in combination with MESSENGER and FERGUSON, discloses a method comprising computing a fee for using the respective applications by accessing a user profile database {See FERGUSON, col. 29, lines 36-39, wherein this reads over "subtool allows the developer of an online service to specify the fees that will be levies on or paid to users"; and col. 30, lines 1-5, wherein this reads over "fees can depend on . . . the identity of the user"}.

The combination of inventions disclosed in CLOUD and FERGUSON would disclose a system wherein application use fees would be calculated according to the identity of the user and the respective applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by CLOUD by combining it with the invention disclose by FERGUSON.

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One of ordinary skill in the art would have been motivated to do this modification so that users may be charged access fees.

### ***Response to Arguments***

20. Applicant's arguments, see Pre-Brief Conference request, filed 11 December 2008, with respect to the rejection(s) of claim(s) 1 and 20 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of VELI.

### ***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL KIM whose telephone number is (571)272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Kim/  
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Examiner, Art Unit 2169  
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